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8
9 **BEFORE THE**
DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
12 Against:

Case Nos. C 110503-04, C20130308-04

FIRST AMENDED ACCUSATION

13 **SHARON A. CURTIS**
14 **33677 Haywood Court**
Temecula, CA 92592

15 **Certified Residential Real Estate Appraiser**
16 **License No. AR 009530**

17 **Respondent.**

18 Complainant alleges:
19

20 **PARTIES**

21 1. Elizabeth Seaters, acting on behalf of the Office of Real Estate Appraisers
(Complainant), brings this First Amended Accusation solely in her official capacity as Chief of
22 Enforcement for Complainant. Complainant is represented in this matter by Kamala Harris,
23 Attorney General of the state of California by Carl Sonne, Deputy Attorney General.

24 2. On or about October 20, 1992, the Director of the Office of Real Estate Appraisers
25 issued Certified Residential Real Estate Appraiser License Number AR 009530 to Sharon A.
26 Curtis (Respondent). The Certified Residential Real Estate Appraiser License was in full force
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28

1 and effect at all times relevant to the charges brought herein and will expire on June 29, 2013,
2 unless renewed.

3 JURISDICTION

4 3. This First Amended Accusation is brought before the Director of the Office of Real
5 Estate Appraisers (Director), under the authority of the following laws.

6 4. Business and Professions Code section 11313 states, in pertinent part:

7 The office [Office of Real Estate Appraisers] is under the supervision and
8 control of the secretary [secretary of the Business, Transportation and Housing
9 Agency]. The duty of enforcing and administering this part is vested in the director
10 [director of the Office of Real Estate Appraisers] and he or she is responsible to the
11 secretary therefore. The director shall adopt and enforce rules and regulations as are
12 determined reasonably necessary to carry out the purposes of this part.

13 5. Business and Professions Code section 11314 states, in pertinent part: "The office is
14 required to include in its regulations requirements for licensure and discipline of real estate
15 appraisers that ensure protection of the public interest."

16 6. Business and Professions Code section 11316, subdivision (a) states:

17 The director may assess a fine against a licensee, applicant for licensure, person who
18 acts in a capacity that requires a license under this part, course provider, applicant for
19 course provider accreditation, or a person who, or entity that, acts in a capacity that requires
20 course provider accreditation for violation of this part or any regulations adopted to carry
21 out its purposes.

22 6. Business and Professions Code section 11319 states:

23 Notwithstanding any other provision of this code, the Uniform Standards of
24 Professional Appraisal Practice constitute the minimum standard of conduct and
25 performance for a licensee in any work or service performed that is addressed by
26 those standards. If a licensee also is certified by the Board of Equalization, he or she
27 shall follow the standards established by the Board of Equalization when fulfilling his
28 or her responsibilities for assessment purposes.

7. Business and Professions Code section 11325, subdivision (a) states:

The director shall adopt regulations which determine the parameters of
appraisal work which may be performed by licensed appraisers.

8. Business and Professions Code section 11409, subdivision (a) states:

Except as otherwise provided by law, any order issued in resolution of a
disciplinary proceeding may direct a licensee, applicant for licensure, person who acts
in a capacity that requires a license under this part, course provider, applicant for
course provider accreditation, or a person who, or entity that, acts in a capacity that
requires course provider accreditation found to have committed a violation or

1 violations of statutes or regulations relating to real estate appraiser practice to pay a
2 sum not to exceed the reasonable costs of investigation, enforcement, and prosecution
3 of the case.

4 REGULATIONS

5 9. The OREA regulations appear in Title 10, Chapter 6.5, section 3500, et seq., of the
6 California Code of Regulations (Regulation).

7 10. Regulation section 3500, subdivision (b)(19), states that the Uniform Standards of
8 Professional Appraisal Practice (USPAP) means those standards as adopted by the Appraisal
9 Standards Board of the Appraisal Foundation.

10 11. California Code of Regulations, title 10, section 3701 states:

11 Every holder of a license under this part shall conform to and observe the
12 Uniform Standards of Professional Appraisal Practice (USPAP) and any subsequent
13 amendments thereto as promulgated by the Appraisal Standards Board of The
14 Appraisal Foundation which standards are herein incorporated into these regulations
15 by reference as if fully set forth herein.

16 12. California Code of Regulations, title 10, section 3702 states that:

17 (a) The Director finds and declares as follows:

18 (1) That the profession of real estate appraisal is vested with a fiduciary
19 relationship of trust and confidence as to clients, lending institutions, and both public
20 and private guarantors or insurers of funds in federally-related real estate transactions
21 and that the qualifications of honesty, candor, integrity, and trustworthiness are
22 directly and substantially related to and indispensable to the practice of the appraisal
23 profession;

24 (3) Every holder of a license to practice real estate appraisal, Registrant,
25 Controlling Person of an Appraisal Management Company, or person or entity acting
26 in a capacity requiring a license or Certificate of Registration shall be required to
27 demonstrate by his or her conduct that he or she possesses the qualifications of
28 honesty, candor, integrity, and trustworthiness.

29 13. California Code of Regulations, title 10, section 3721 states:

30 (a) The Director may issue a citation, order of abatement, assess a fine or
31 private or public reproof, suspend or revoke any license or Certificate of
32 Registration, and/or may deny the issuance or renewal of a license or Certificate of
33 Registration of any person or entity acting in a capacity requiring a license or
34 Certificate of Registration who has:

35 (2) Done any act involving dishonesty, fraud or deceit with the intent to benefit
36 himself or another, or to injure another;

1 (6) Violated any provision of USPAP;

2 (7) Violated any provision of the Real Estate Appraisers' Licensing and
3 Certification Law, Part 3 (commencing with Section 11300) of Division 4 of the
4 Business and Professions Code, or regulations promulgated pursuant thereto; or
5 any provision of the Business and Professions Code applicable to applicants for or
6 holders of licenses authorizing appraisals;....

7 14. California Code of Regulations, title 10, section 3722, states:

8 (a) A crime or act shall be deemed to be substantially related to the
9 qualifications, functions or duties of an appraiser if, to a substantial degree, it
10 evidences present or potential unfitness of a person holding a license to perform the
11 functions authorized by his/her license. The crimes or acts include, but are not limited
12 to, the following:

13 (1) Crimes or Acts involving the use of fraud, deceit or dishonesty for profit or
14 gain;

15 (2) Taking, appropriating or retaining the funds or property of another;

16 (3) Forging, counterfeiting or altering any instrument affecting the rights or
17 obligations of another;

18 (4) Evasion of a lawful debt or obligation, including but not limited to tax
19 obligations;

20 (5) Traffic in any narcotic or controlled substance in violation of law;

21 (6) Driving under the influence of alcohol or drugs, while conducting business
22 related to real estate appraisals; conviction of felony driving under the influence of
23 alcohol or drugs; or conviction of two or more misdemeanor driving under the
24 influence of alcohol or drugs within any three year period, whether or not while
25 conducting business:

26 (7) Violation of a relation of trust or confidence;

27 (8) Theft of personal property or funds;

28 (9) Crimes or acts of violence or threatened violence against persons or
property;

(10) The commission of any crime or act punishable as a sexually related crime,
if that crime or act is substantially related to the duties and functions of the licensee;
or

(11) Misrepresentation of facts or information on the appraisal license
application and/or cheating on the examination.

(b) An act or crime shall be deemed to be substantially related to the functions,
duties or qualifications of an appraiser if it involves any willful violation of the Real
Estate Appraisers' Licensing and Certification Act or provisions of the Business and
Professions Code applicable to appraisers.

1 (c) The weight to be accorded to a substantially related crime or act under (a) or
2 (b) shall be determined by application of the following standards:

3 (1) The extent to which the particular acts or omissions have adversely affected
4 other persons, including but not limited to lenders, clients, employers or other
5 persons; and the probability that such adverse effects will continue;

6 (2) The recency or remoteness in time of the acts or omissions;

7 (3) The type of license applied for or held by the person involved;

8 (4) The extenuating or aggravating circumstances surrounding the acts or
9 omissions;

10 (5) The motivation of the acts or omissions, whether praiseworthy or
11 blameworthy;

12 (6) The probability that the questioned acts or omissions will continue or be
13 repeated; and

14 (7) The extent to which disciplinary action may inflict an adverse impact or
15 chilling effect upon the constitutional rights of the person involved or other licensed
16 persons.

17 **UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP)**

18 **(EFFECTIVE JANUARY 1, 2010 – DECEMBER 31, 2011)¹**

19 15. USPAP Standards Rule 1-1, states:

20 In developing a real property appraisal, an appraiser must:

21 (a) be aware of, understand, and correctly employ those recognized methods
22 and techniques that are necessary to produce a credible appraisal;

23 (b) not commit a substantial error of omission or commission that
24 significantly affects an appraisal;

25

26 16. USPAP Standards Rule 1-2, states:

27 In developing a real property appraisal, an appraiser must:

28

(e) identify the characteristics of the property that are relevant to the type and
definition of value and intended use of the appraisal, [footnote omitted] including:

(i) its location and physical, legal, and economic attributes;

. . . .

¹ USPAP is periodically revised: appraisers are responsible for adherence to the edition of USPAP in effect as of the date of report for the appraisal. The date of report for the appraisal that is the subject of the first and second causes of action is November 30, 2010, therefore, the January 1, 2010 – December 31, 2011, edition of USPAP is relevant.

1 17. USPAP Standards Rule 1-4, states:

2 In developing a real property appraisal, an appraiser must collect, verify, and
3 analyze all information necessary for credible assignment results.

4 (a) When a sales comparison approach is necessary for credible assignment
5 results, an appraiser must analyze such comparable sales data as are available to
6 indicate a value conclusion.

7 18. USPAP Standards Rule 2-1, states:

8 Each written or oral real property appraisal report must:

9 (a) clearly and accurately set forth the appraisal in a manner that will not be
10 misleading;

11 (b) contain sufficient information to enable the intended users of the
12 appraisal to understand the report properly;

13 19. USPAP Standards Rule 2-2, states:

14 Each written real property appraisal report must be prepared under one of the
15 following three options and prominently state which option is used: Self-Contained
16 Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.
17 [footnote omitted]

18 (b) The content of a Summary Appraisal Report must be consistent with the
19 intended use of the appraisal and, at a minimum:

20 (iii) summarize information sufficient to identify the real estate involved in
21 the appraisal, including the physical and economic property characteristics relevant
22 to the assignment; [footnote omitted]

23 (viii) summarize the information analyzed, the appraisal methods and
24 techniques employed, and the reasoning that supports the analyses, opinions, and
25 conclusions; exclusion of the sales comparison approach, cost approach, or income
26 approach must be explained;

27 20. USPAP Ethics Rule, states:

28 An appraiser must promote and preserve the public trust inherent in appraisal
practice by observing the highest standards of professional ethics.

An appraiser must comply with USPAP when obligated by law or regulation,
or by agreement with the client or intended users. In addition to these requirements,
an individual should comply any time that individual represents that he or she is
performing the service as an appraiser.

Conduct:

An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.

An appraiser:

- must not perform an assignment with bias;
- must not advocate the cause or interest of any party or issue;
- must not accept an assignment that includes the reporting of predetermined opinions and conclusions;
- must not misrepresent his or her role when providing valuation services that are outside of appraisal practice;
- must not communicate assignment results with the intent to mislead or to defraud;
- must not use or communicate a report that is known by the appraiser to be misleading or fraudulent;
- must not knowingly permit an employee or other person to communicate a misleading or fraudulent report;
- must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value;
- must not engage in criminal conduct; and
- must not perform an assignment in a grossly negligent manner.

If known prior to accepting an assignment, and/or if discovered at any time during the assignment, an appraiser must disclose to the client, and in the subsequent report certification:

- any current or prospective interest in the subject property or parties involved; and
- any services regarding the subject property performed by the appraiser within the three year period immediately preceding acceptance of the assignment, as an appraiser or in any other capacity.

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1 **UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP)**

2 **(EFFECTIVE JANUARY 1, 2012 – DECEMBER 31, 2013)²**

3 21. USPAP Standards Rule 1-1, states:

4 In developing a real property appraisal, an appraiser must:

5 (a) be aware of, understand, and correctly employ those recognized methods
6 and techniques that are necessary to produce a credible appraisal;

7 (b) not commit a substantial error of omission or commission that
8 significantly affects an appraisal;

9 22. USPAP Standards Rule 1-2, states:

10 In developing a real property appraisal, an appraiser must:

11

12 (e) identify the characteristics of the property that are relevant to the type and
13 definition of value and intended use of the appraisal, [footnote omitted] including:

14 (i) its location and physical, legal, and economic attributes;

15

16 23. USPAP Standards Rule 1-4, states

17 In developing a real property appraisal, an appraiser must collect, verify, and
18 analyze all information necessary for credible assignment results.

19 (a) When a sales comparison approach is necessary for credible assignment
20 results, an appraiser must analyze such comparable sales data as are available to
21 indicate a value conclusion.

22

23 24. USPAP Standards Rule 2-1, states:

24 Each written or oral real property appraisal report must:

25 (a) clearly and accurately set forth the appraisal in a manner that will not be
26 misleading;

27 (b) contain sufficient information to enable the intended users of the
28 appraisal to understand the report properly;

29

30 ² USPAP is periodically revised: appraisers are responsible for adherence to the edition of
31 USPAP in effect as of the date of report for the appraisal. The date of report for the appraisal that
32 is the subject of the third cause of action is May 13, 2012, therefore, the January 1, 2012 –
33 December 31, 2013, edition of USPAP is relevant.

1 25. USPAP Standards Rule 2-2, states:

2 Each written real property appraisal report must be prepared under one of the
3 following three options and prominently state which option is used: Self-Contained
4 Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.
[footnote omitted]

5 (b) The content of a Summary Appraisal Report must be consistent with the
6 intended use of the appraisal and, at a minimum:

7 (iii) summarize information sufficient to identify the real estate involved in
8 the appraisal, including the physical and economic property characteristics relevant
to the assignment; [footnote omitted]

9 (viii) summarize the information analyzed, the appraisal methods and
10 techniques employed, and the reasoning that supports the analyses, opinions, and
conclusions; exclusion of the sales comparison approach, cost approach, or income
11 approach must be explained;

12 26. USPAP Ethics Rule, states:

13 An appraiser must promote and preserve the public trust inherent in appraisal
14 practice by observing the highest standards of professional ethics.

15 An appraiser must comply with USPAP when obligated by law or regulation,
or by agreement with the client or intended users. In addition to these requirements,
16 an individual should comply any time that individual represents that he or she is
performing the service as an appraiser.

17 Conduct:

18 An appraiser must perform assignments with impartiality, objectivity, and
19 independence, and without accommodation of personal interests.

20 An appraiser:

- 21 • must not perform an assignment with bias;
- 22 • must not advocate the cause or interest of any party or issue;
- 23 • must not accept an assignment that includes the reporting of
predetermined opinions and conclusions;
- 24 • must not misrepresent his or her role when providing valuation services that
are outside of appraisal practice;
- 25 • must not communicate assignment results with the intent to mislead or to
26 defraud;
- 27 • must not use or communicate a report that is known by the appraiser to be
28 misleading or fraudulent;

1 • must not knowingly permit an employee or other person to communicate
2 a misleading or fraudulent report;

3 • must not use or rely on unsupported conclusions relating to
4 characteristics such as race, color, religion, national origin, gender, marital status,
5 familial status, age, receipt of public assistance income, handicap, or an unsupported
6 conclusion that homogeneity of such characteristics is necessary to maximize value;

7 • must not engage in criminal conduct;

8 • must not willfully or knowingly violate the requirements of the RECORD
9 KEEPING RULE; and

10 • must not perform an assignment in a grossly negligent manner.

11 If known prior to accepting an assignment, and/or if discovered at any time
12 during the assignment, an appraiser must disclose to the client, and in the subsequent
13 report certification:

14 • any current or prospective interest in the subject property or parties involved;
15 and

16 • any services regarding the subject property performed by the appraiser
17 within the three year period immediately preceding acceptance of the assignment, as
18 an appraiser or in any other capacity.

19 FIRST CAUSE FOR DISCIPLINE

20 (Violation of USPAP & Regulations - 9137 Quail Lake Court, Loomis, CA 95650)

21 27. On or about November 30, 2010, Respondent completed an appraisal of the
22 property located at 9137 Quail Lake Court, Loomis, CA 95650, with a concluded opinion of
23 value at \$725,000. The property appraised consisted of a .519 acre cul-de-sac lot within a
24 planned unit development improved to a 3,756 square foot (as measured by Respondent) four
25 bedroom, three bathroom residence constructed in 1994. Respondent is subject to disciplinary
26 action under Regulation section 3721, subdivisions (a)(2), (a)(6) and (a)(7), by and through her
27 violation of Regulations sections 3701, 3702 subdivisions (a)(1) and (a)(3), and the following
28 USPAP violations:

a. Respondent incorrectly identified and described the zoning for subject
property. Respondent reported the zoning to be "RESIDENTIAL" "The actual zoning
was "RA-B-43 P = 1" (S.R. 1-2 (e)(i) and S.R. 2-2(b)(iii));

b. Respondent failed to accurately report neighborhood boundaries for the
subject property. Respondent's reported south boundary was to the west of the

1 identified west boundary, which resulted in reported neighborhood boundaries that
2 were not possible. (S.R. 1-2 (e)(i) and S.R. 2-2(b)(iii));

3 c. Respondent failed to correctly perform the Sales Comparison Approach.
4 Comparable sale property improvements were falsified or misreported. No support
5 was provided for adjustments made to the comparable sales. Specifically,
6 Respondent failed to explain in any detail what was superior about the subject's
7 quality of construction when a positive \$100,000 adjustment was applied to the
8 quality of construction field for Comparable Sale Two and Four. (S.R. 1-4(a))

9 d. Based on a, b and c above, Respondent prepared and knowingly
10 communicated a misleading report (S.R. 1-1(a), (b), S.R. 2-1(a), (b), S.R. 2-2(b)(viii)
11 and Conduct Section of the Ethics Rule).

12 SECOND CAUSE FOR DISCIPLINE

13 (Production and Delivery of a Fraudulent Report)

14 28. Respondent violated California Code of Regulations sections 3702(a)(1) and (3) and
15 the Conduct Section of the Ethics Rule by producing and delivering to her client an appraisal
16 report that contained the digital signature of another licensed appraiser.

17 THIRD CAUSE FOR DISCIPLINE

18 (Violation of USPAP & Regulations - 331 Manor Drive, Pacifica, CA 94044)

19 29. On or about May 13, 2012, Respondent completed an appraisal of the property
20 located at 331 Manor Drive, Pacifica, CA 94044. The report contains certain errors or omissions,
21 in violation of the provisions of the Uniform Standards of Professional Appraisal Practice
22 (USPAP) and Title 10 of the California Code of Regulations. Respondent is subject to
23 disciplinary action under Regulation section 3721, subdivisions (a)(2), (a)(6) and (a)(7), by and
24 through her violation of Regulations sections 3701, 3702 subdivisions (a)(1) and (a)(3), and the
25 following USPAP violations:

26 a. Respondent reported the subject's specific zoning classification as SFR,
27 when it was R-1 as confirmed with the city of Pacifica's zoning map (edited February
28 2001). (S.R. 1-2(e)(i) and 2-2(b)(iii));

29 b. Respondent failed to correctly perform the Sales Comparison Approach by:

- 30 • fallaciously reporting that no one bathroom sales were available, when
31 several one bathroom sales were available within the subject immediate
32 neighborhood,

- reporting three closed sales as comparables that were superior in gross living area (GLA) to the subject property GLA in excess of 51.5%,
- failing to report that Comparable Sales One, Four and Five were located outside the subject's immediate market area and analyze similarities or differences between the different market areas,
- failing to report or analyze that Comparable Sale Two was in superior condition, and
- misrepresenting Comparable Sale Four's view as a residential view inferior to the subject's view when this sale had an ocean view.

(S.R. 1-4(a), and S.R. 2-2(b)(viii));

c. As a result of findings a and b, Respondent failed to correctly employ recognized methods and techniques that are necessary to produce credible assignment results and failed to clearly and accurately set forth the appraisal in a manner that was not misleading. Respondent also reported false information when she reported there were no recent sales of one bathroom homes. (S.R. 1-1(a), S.R. 1-1(b), S.R. 2-1(a), S.R. 2-1(b), and Conduct Section of the Ethics Rule); and

d. As a result of findings a and b Respondent was willfully dishonest when she continued to report false information after receiving prior discipline and education specifically involving:

- the misreporting of specific zoning classifications,
- failing to report appropriate comparable sale,
- failing to report accurate information about the comparable sales, and
- failing to support adjustments.

(Title 10, California Code of Regulations Section 3721(a)(2) and (6))

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of the Office of Real Estate Appraisers issue a decision:

1. Revoking or suspending Real Estate Appraiser License Number AR 009530, issued to Sharon A. Curtis;

- 1 2. Ordering Sharon A. Curtis to pay the Director of the Office of Real Estate Appraisers
2 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 11409;
4 3. Ordering Sharon A. Curtis to pay the Director of the Office of Real Estate Appraisers
5 a fine pursuant to Business and Professions Code section 11316; and
6 4. Taking such other and further action as deemed necessary and proper.
7

8
9 DATED: 5/1/13

Elizabeth Seaters
ELIZABETH SEATERS
Chief of Enforcement
Supervising Property Appraiser Investigator
Office of Real Estate Appraisers
State of California
Complainant

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